IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

EXCISE REFERENCE APPLICATION NO.13 OF 2000

M/s. Shripack .. Applicant.
V/s.
The Commissioner of Central
Excise, Vadodara .. Respondent.

Mr.Arun Mehta for the applicant.
Mr.H.V. Mehta with Mr.Y.R. Mishra for the respondent.

CORAM : S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 23RD FEBRUARY, 2005.

P.C. :

Heard learned counsel for the applicant and the respondent.

2. The applicant has sought to raise the following substantial questions of law.

1. Whether it can be held that there is a 'shifting of duty liability' by the applicants when under the relevant Rule 57F(2) there is no duty 'liability' at all for the applicants ?

2. Whether there could be any duty liability of rs.1,25,697.30 on the applicants, as confirmed by the Hon'ble Tribunal, under Rule 57F(2) when under the said Rule inputs are permitted to be sent out without payment of duty to the processor and the said inputs are also permitted to be received back without payment of any duty from the processor and the fact of the duty payment on final products in which the said inputs were used is not in doubt ?

3. Whether the Tribunal was right in upholding the confiscation of the inputs when

there was no requirement for payment of duty and therefore no possibility of duty evasion and when there was merely procedural infraction of temporarily storing the applicants' inputs in the premises of the applicants' sister concern nearby because of the temporary closure of the applicants' premises when the inputs were returned by the processor ?

4. Whether there can be a 'duly liability' where the applicant has not carried out the manufacturing activity ?

3. We have perused the order of the CEGAT dated August 13, 1999 wherein in para 3 following observations are relevant :

'3. Once it is an admitted position, it amounts to removal of the goods from the premises of the appellant M/s.Shripacks.

4. In view of the above, we do not find any substantial questions of law in this application. The application stands dismissed.

(S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)